

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6605 OF 2005
IN
CRIMINAL WRIT PETITION NO.1411 OF 2005

P.K.Tamboskar & Anr. ...Applicants
VS.
State of Maharashtra & Anr. ...Respondents
Mr.Manish Mestry i/b Mr.M.M.Vashi for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA, J.
DATE : OCTOBER 14, 2005

P.C.:

1. The prayer made in this application is for extension of ad-interim order passed in the main Writ Petition.
2. In the main Writ Petition, notice was ordered to be issued to the Respondent No.2 by order dated 11th May 2005 and the notice was made returnable on 21st June 2005. Initially, there was a delay in sending the notice as a copy of Petition for effecting service was not supplied by the Advocate for the Petitioner. Notice was issued on 2nd July 2005. Till today the notice is not received back.
3. There is no specific provision in the Appellate Side rules for effecting service of notice in Criminal matters through a particular Court or authority. The practice which is followed by this Court is that the notices issued in the criminal matters which are required to be served in the city of Mumbai

are sent through the Court of Metropolitan Magistrates. The concerned Courts of Metropolitan Magistrates send the notice for effecting service either to the concerned police station or to the office of the Commissioner of Police. In case of matters arising from Districts, notices are sent for service to the District Magistrate. The District Magistrates in turn send the notices for effecting service to the Superintendent of Police or to the Commissioner of Police as the case may be. Both in Mumbai and other Districts notices are forwarded to the Police Authorities with a direction to submit a report to this Court directly. It is, thus, obvious that there is no effective control or check on the service of notice either by this Court or by any other Court subordinate to this Court as in the case of civil proceedings. The net result is that there is inordinate delay on the part of the Police Authorities in sending the service reports to this Court. The result is that large number of criminal matters are pending in this Court for years together awaiting service of notices. In cases of notices which are sent to the District Magistrates in the districts, notices are sent by the offices of the District Magistrates to either to the office of the District Superintendent of Police or to the office of the Commissioner of Police. If notices are ultimately served by the Police Authorities, a lot of time is wasted by sending the notice for service through the courts of the Metropolitan Magistrates or through the District Magistrates. There is no specific rule

under the Appellate Side Rules requiring this practice to be followed. It is desirable that notices are sent directly to the serving agency viz. office of the District Superintendent of Police or to the Commissioner of Police as the case may be. The Registrar (Judicial-I) will have to look into this aspect and submit a report. Report to be submitted on or before 27th October 2005.

4. So far as the prayer made in this application is concerned, the same deserves to be allowed. Accordingly, ad-interim relief granted in the Writ Petition on 11th May 2005 is extended till 28th October 2005.

5. The Advocate for the petitioner is directed to serve private notice to the Respondent No.2 returnable on 27th October 2005. Service Affidavit to be filed on or before the next date.

6. Application is disposed of accordingly. However, for compliance with the directions issued, place it on board before the 28th October 2005 at 11.00 a.m. for directions.

7. Parties to act upon an authenticated copy of this order.

JUDGE